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Date of Deposit: August 25, 2003

Attorney Docket No.: 21402-214 CIP (Cura-514 CIP)

#12

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Edinger *et al.*
APPLICATION NO: 10/087,684 **EXAMINER:** Not yet assigned
FILING DATE: March 1, 2002 **ART UNIT:** 1645
FOR: PROTEINS AND NUCLEIC ACIDS ENCODING SAME

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REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(a)

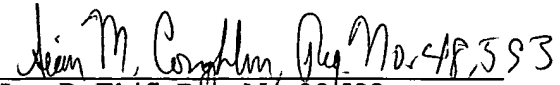
1. In reply to the Decision Refusing Status Under 37 C.F.R. § 1.47(a), mailed June 23, 2003 in the above-identified application, Applicants respectfully request reconsideration of the Petition. A copy of the Decision is enclosed herewith.
2. The Decision indicates that the prior Petition lacked sufficient proof evidencing that the legal representative of non-signing inventor, Denise Lepley, refuses to sign the combined declaration and power of attorney after having been presented with the application papers for the instant application.
3. In response to the Petitions Attorney, Applicants hereby submit a renewed petition with proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers.
5. This Request for Reconsideration should be timely filed on August 25, 2003 (August 23, 2003 was a Saturday). No fee is believed due. However, Applicants hereby authorize the Commissioner to charge any necessary fees that may be due, or to credit any overpayment, to Deposit Account No. 50-0311, Reference No. 21402-214 CIP (Cura-514 CIP).

U.S.S.N. 10/087,684
Applicants: Edinger *et al.*

Should the Commissioner have any questions concerning this petition, he is invited to telephone the undersigned at the number provided.

Respectfully submitted,

Dated: August 25, 2003


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**RENEWAL OF PETITION FOR FILING PATENT APPLICATION
WHEN AN INVENTOR REFUSES TO EXECUTE UNDER 37 C.F.R. § 1.47(a)**

1. Pursuant to 35 U.S.C. § 116 and 37 C.F.R. § 1.47(a), the undersigned hereby petitions to allow each of the signing inventors to make this application on his or her behalf well as on behalf of the non-signing inventor, Denise Lepley. Applicants have attached a declaration in support of 37 C.F.R. § 1.47 filing ("Declaration") signed by an Administrative Assistant of Intellectual Property of Curagen Corporation for U.S.S.N. 10/087,684, filed March 1, 2002. Applicants paid the fee set forth in 37 C.F.R. § 1.16(b), with the original opinion filed on March 10, 2003.

2. The inventors of the invention claimed in the above-referenced application are Shlomit R. Edinger, John R. MacDougall, Isabelle Millet, Karen Ellerman, David J. Stone, Valerie Gerlach, William M. Grosse, John P. Alsobrook, II, Denise M. Lepley, Daniel K. Rieger, Catherine E. Burgess, Stacie J. Casman, Kimberly A. Spytek, Fernec L. Boldog, Li Li, Muralidhara Padigar, Vishnu Mishra, Meera Patturajan, Suresh G. Shenoy, Luca Rastelli, Velizar T. Tchernev, Corine A.M. Vernet, Bryan D. Zerhusen, Uriel M. Malyankar, Xiaojia Guo, Charles E. Miller, and Esha A. Gangolli, as identified in the executed Combined Declaration and Power of Attorney submitted in a Response to Notice to File Missing Parts filed at the same time as this petition. Co-inventor Denise Lepley refuses to execute the Combined Declaration and Power of Attorney for this application.

3. CuraGen Corporation employed Denise Lepley (as well as the other co-inventors), at the time the invention claimed in the present application, (U.S.S.N. 10/087, 684), which claims priority to U.S.S.N. 60/253,834, filed November 29, 2000; U.S.S.N. 60/250,926, filed November 30, 2000; U.S.S.N. 60/264,180, filed January 25, 2001; U.S.S.N. 60/274,194, filed March 8, 2001; U.S.S.N. 60/313,656,

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filed August 20, 2001; and U.S.S.N. 60/327,456, filed October 5, 2001 was conceived and reduced to practice. A copy of a CuraGen Corporation employment agreement executed by Denise Lepley on April 23, 2001, is attached to this petition. Under this agreement Denise Lepley is obligated to execute any and all applications for domestic and foreign patents covering inventions conceived, made, or discovered during the course of her employment.

4. The accompanying Declaration in Support of 37 C.F.R. § 1.47 filing sets forth the pertinent facts demonstrating that Denise Lepley has refused to sign any patent applications for her former employer, Curagen Corporation. The Exhibits to the declaration include correspondence between Curagen Corporation and Denise Lepley about this application, (U.S.S.N. 10/087, 684 filed March 1, 2002), and her refusal to execute the formal papers for this application.

5. Thus, based upon the record of correspondence to date set forth in the Declaration, Denise Lepley has refused and continues to refuse to execute the Combined Declaration and Power of Attorney and to make application as a joint inventor of the present application.

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8. Under the requirements set forth under 37 C.F.R. § 1.47, the last address of Denise Lepley known to the undersigned is:

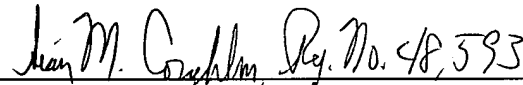
University of Connecticut Health Center (Center for Vascular Biology)
ARB Bldg-E5052
263 Farmington Avenue
Farmington, CT 06030-3501

Based upon the pertinent facts presented herein and in the Declaration, the undersigned hereby respectfully requests that application for the above-identified invention be made by each of the signing co-inventors on his or her behalf and on the behalf of the nonsigning co-inventor, Denise Lepley. To that end, the undersigned, on behalf of the signing co-inventors, respectfully requests reconsideration and grant of this petition for filing the patent application by less than all of the co-inventors pursuant to 37 C.F.R. § 1.47(a).

Should the Commissioner have any questions concerning this petition, he is invited to telephone the undersigned at the number provided.

Respectfully submitted,

Dated: August 25, 2003


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